

## **NON-EXCLUSIVE LICENSE AGREEMENT FOR THE JOINT USE OF POLES**

This License Agreement for the Joint Use of Poles (“**Agreement**”) is made and effective as of the 10th day of December, 2024 (“**Effective Date**”), by and between Citizens Utilities Rural Company, a California corporation, doing business as Fort Mojave Telecommunications, Inc. hereinafter referred to as “**Licensee**”, and the City of Needles, a California charter city and the Needles Public Utility Authority, collectively hereinafter referred to as “**City**.” Licensee and City may be referred to individually as a “**Party**” and collectively as the “**Parties**.”

### **RECITALS**

This Agreement is entered into on the basis of the following facts, understandings and intentions of the Parties to this Agreement:

A. The Licensee has requested approval to utilize Needles Public Utility Authority (“**NPUA**”) power poles to cross two areas to increase the Licensee’s service. The first location is Eagle Pass Road, where the NPUA has two power poles, and the second is on Needles Highway, which crosses a San Bernardino County flood control area, photos of which are attached hereto as **Exhibit “A”** (hereinafter “**Joint Use Pole**” or “**Joint Use Poles**”); and

B. The Parties agree that this nonexclusive license Agreement only pertains to the Joint Use Poles depicted in Exhibit “A”; and

C. The Parties agree that City reserves the right to deny the use of the Joint Use Poles if Licensee does not meet the conditions required by City, including but not limited to, safety standards, structure stability, power sustainability and energy demand.

### **AGREEMENT**

NOW THEREFORE, in consideration of the foregoing Recitals and mutual covenants contained herein, City and Licensee agree as follows:

1. **Incorporation of Recitals.** The Parties accept the above recitals as true and correct and incorporate them herein as if they were fully restated in this Agreement.

2. **Purpose and Scope.** The purpose of this Agreement is to establish the terms and conditions under which the Licensee may utilize the Joint Use Poles. This Agreement shall apply

exclusively to the Joint Use Poles and shall be non-exclusive with the City retaining the right to allow other utilities and licensees to utilize its power poles.

3. Authorized Use. The Licensee is permitted to attach to the Joint Use Poles solely by means of an anchor. This Agreement does not authorize any drilling into the Joint Use Poles or any other action that may impact the integrity of the Joint Use Poles.

4. Reservation of City's Rights. City shall have sole and exclusive authority to approve, conditionally approve, or deny any request for Joint Use Pole attachments or to require any licensee to remove its equipment from City's poles. City reserves all rights and discretion related to future use of the poles, maintenance and/or replacement of the poles and any future uses or licensing of use of the poles.

4.1 Termination of License. City may terminate Licensee's use of any Joint Use Power Pole at any time upon providing thirty (30) days written notice, unless exigent circumstances require shorter notice. Upon receipt of such notice, Licensee shall remove its attachments from the specified Joint Use Pole within thirty (30) days. City may terminate this Agreement immediately and without 30 days notice upon discovery of just cause. Just cause includes, but is not limited to, safety concerns, failure to comply with local, state, and federal laws, any and all regulatory requirements, or City's need to use the pole(s) for its own services.

5. Licensee's Rights. No use of any Joint Use Poles under this Agreement, regardless of duration, shall create or vest in Licensee any ownership or property rights therein. The Licensee's right shall be and will remain a license only and is revocable in City's discretion.

6. Maintenance.

6.1 City's Maintenance. City shall provide Licensee with thirty (30) day notice of any plans to replace, decommission or remove a Joint Use Pole.

6.2 Licensee's Maintenance. Licensee shall, at its own expense, make and maintain its attachments in a safe condition, in compliance with all applicable laws, regulations and industry standards. All attachment shall be made and maintained in a manner acceptable to City and in conformance with the standards listed below in Section 6.3 of this Agreement.

6.3 Agency and National Standards. Construction installation, maintenance and repair of Joint Use Poles and all electric and communication circuits located thereon shall be in accordance with the National Electric Safety Code, as adopted by California Public Utilities Commission, the National Electric Code as adopted by the City of Needles, the California Occupational Safety and Health Act (Cal OSHA), the southern California Joint Pole Committee

Joint Pole Practices and Routine, the rules and regulations of any governing authority having jurisdiction over the subject matter of this Agreement, and the requirements City prescribes in this Agreement. Where a difference in standards may exist, the more stringent shall apply.

6.4 No Conflict of Use. Licensee shall ensure that its attachments do not conflict with City or any other third-party use of the Joint Use Poles. In the event of any interference caused by Licensee's attachments, Licensee shall, at its own expense and within fifteen (15) days of written notice from the City or affected third-party, remedy the interference to City's satisfaction.

7. Cost.

7.1 Pole Attachment Fee. The annual fee for calendar year 2024 shall be \$7.78 per pole ("**Annual Attachment Fee**"). The Annual Attachment Fee shall be adjusted effective January 1 of each year. The amount of adjustment will be calculated by utilizing the National Consumer Price Index as follows: (i) the most recent published index number for the current year will be used as the fee adjuster to the next year's Annual Attachment Fee, (ii) the percentage of change in the average index numbers will be applied to the current year's Annual Attachment Fee, which will be effective January 1 of the next year, and (iii) the Annual Attachment Fee billing for the next year will be forwarded to Licensee by December 15 of each year.

7.2 Failure to Pay. If Licensee fails to pay Pole Attachment Fees when due, City may, upon ten (10) days written notice, terminate Licensee's rights under this Agreement and remove Licensee's attachments from the Joint Use Poles.

7.3 Removal of Attachments. Licensee is responsible for the removal of all wires, cables, lamp fixtures, guy wires, conduits, and all other apparatus, fixtures or appurtenances of Licensee attached to the Joint Use Poles ("**Attachment**"). Licensee shall bear all costs and expenses associated with the removal of any Attachment or other equipment or materials installed or placed by Licensee on the Joint Use Poles. Licensee shall complete all removal work in compliance with applicable laws, regulations, and industry standards.

8. Assignment of Rights. Notwithstanding any other provision in this Agreement, the City shall have the unrestricted right to assign, transfer, or otherwise dispose of any part of this Agreement, including but not limited to any of its rights or interests hereunder, any Joint Use Pole, or any Attachment or right-of-way covered by this Agreement, to any firm, corporation, individual, or other entity without the prior written consent of Licensee.

The Licensee shall not assign, transfer, or otherwise dispose of any part of this Agreement, including but not limited to any of its rights or interest hereunder, any Joint Use Pole, or any

Attachment or right-of-way covered by this Agreement, to any firm, corporation, individual, or other entity, without the prior written consent of the City.

9. Taxes. Licensee shall pay any taxes and/or assessments lawfully levied on its equipment/property attached to any Joint Use Pole.

10. Notice. When it is necessary to provide notice to the Parties as provided within this Agreement, delivery of such notice shall be to:

City of Needles  
Customer Service Center  
817 Third Street,  
Needles, California 92363

Fort Mojave Telecommunications, Inc.  
8490 Highway 95 #104  
Mohave Valley, Arizona 86440

11. Indemnification.

11.1 Licensee's Indemnification. Fort Mojave Telecommunications, Inc. shall indemnify, defend, and hold harmless the City of Needles, its officers, employees, agents, and representatives from and against any and all claims, demands, actions, suits, damages, liabilities, losses, settlements, judgments, costs, and expenses (including but not limited to reasonable attorney's fees and costs), whether or not involving a third party claim, which arises out of or relate to: (i) any use of or activities related to the Joint Use Poles or any pole in which Fort Mojave Telecommunications, Inc. has attachments installed, (ii) the installation, maintenance, repair, or removal of any attachments to the aforementioned power poles, (iii) any breach or violation of this Agreement by Licensee, (iv) any failure by Licensee to comply with applicable laws, regulations, or safety standards, or (v) any negligent acts, errors, or omissions of Licensee, its employees, agents, or contractors. Licensee's indemnification obligations shall apply regardless of whether the claim, demand, action, suit, damage, liability, loss, settlement, judgment, cost, or expense is caused in part by a party indemnified hereunder, except to the extent caused by the sole negligence or willful misconduct of the City of Needles.

12. Insurance.

12.1 Licensee Insurance. Licensee shall, at its sole cost and expense, provide, procure and maintain, during the term of this Agreement the following insurance coverages:

12.1.1 Workers Compensation insurance to cover obligations imposed by federal and state statutes having jurisdiction of its employees engaged in the performance of the

work, and Employer's Liability insurance with a minimum limit of one million dollars (\$1,000,000).

12.1.2 Commercial General Liability insurance to cover with a minimum combined single limit of one million dollars (\$1,000,000) for each occurrence. The policy shall include coverage for bodily injury, broad form property damage liability (including completed operations), personal injury liability (including coverage for contractual and employee acts), blanket contractual, and products. The policy shall include a severability of interest provision. The product and completed operation coverage shall extend for two years past the termination of the Agreement.

12.1.3 Comprehensive Automobile Liability insurance with a combined single limit for Bodily injury and property damage of not less than one million dollars (\$1,000,000) for each occurrence with respect to Licensee's vehicles.

12.1.4 Licensee shall name the City as an additional insured on a primary and non-contributory basis.

13. Term. This Agreement shall remain in effect until terminated by either Party with or without cause, at any time upon one hundred eighty (180) days written notice to the other Party, or until otherwise terminated as provide in this Agreement.

14. Miscellaneous Provisions.

14.1 Dispute Resolution. Any controversy or claim, besides those related to bodily injury, death, or property damage, related to this Agreement shall be provided to the opposite Party through notice. Such controversy or claim shall be subject to a meeting between the appropriate officials of City and Licensee and both Parties shall attempt to settle disagreements amicably and efficiently before resorting to formal litigation. The initial meeting between the Parties officials shall take place within thirty (30) days after notice of the dispute has been received.

14.2 Entire Agreement and Modifications. This Agreement, which includes all attached exhibits, supersedes any and all pervious agreements, either oral or written, between the parties hereto with respect to the use of Joint Use Poles and contains all of the covenants and agreements between the parties with respect to the granting of the license to use the Joint Use Poles as described within this Agreement. Any modifications of this Agreement will be effective only if it is in writing, signed by both Parties.

14.3 Choice of Law. This Agreement is made, entered into and shall be performed in the County of San Bernardino, in the State of California and shall in all respects be interpreted, enforced and governed under the laws of the State of California.

14.4 Venue. The Parties agree that any action, proceeding, or claim arising out of or relating to this Agreement shall be brought exclusively in the state or federal courts located in the County of San Bernardino, State of California. Each Party irrevocably submits to the exclusive jurisdiction of such courts for the purpose of any such action, proceeding, or claim.

14.5 Severability. If any portion, section, sentence, provision or paragraph of this Agreement is declared invalid, illegal or otherwise unenforceable by a court of competent jurisdiction, the entire balance of this Agreement not so affected shall remain in full force and effect.

(SIGNATURE ON FOLLOWING PAGE)

IN WITNESS WHEREOF, the Parties hereby have made and executed this Agreement to be effective as of the day and year first above written.

**CITY OF NEEDLES, CALIFORNIA**

**FORT MOJAVE TELECOMMUNICATIONS, INC.**

By: *Peter G. Martinez*

By: *Michael Scully*

Title: City Manager

Title: General Manager

Date: 12/20/2024

Date: 12-17-2024

ATTEST:

*Caroline Clark*

City Clerk

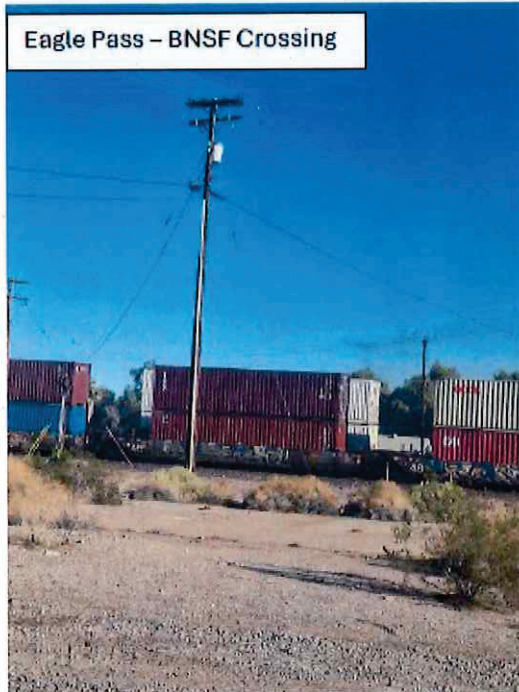
Approved As To Form:

*[Signature]*  
City Attorney



**EXHIBIT "A"**  
**(JOINT USE POLES)**

Fort Mojave Telecommunications, Inc.  
Proposed Joint Pole Locations



Needles Highway – Flood Control Crossing

